

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LONZELL GREEN,

No. C-10-5233 TEH (PR)

Petitioner,

v.

TIM VIRGA, Warden,

ORDER OF DISMISSAL

Respondent.

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Petitioner, a state prisoner presently incarcerated at California State Prison in Represa, California, and a frequent litigant in this Court, has filed another second or successive Petition for a Writ of Habeas Corpus under 28 U.S.C. § 2254 challenging a 1991 criminal judgment from Alameda County Superior Court. Doc. #1.

In response to Petitioner's fourth habeas petition filed in this Court, No. C-00-4615 TEH (PR), the Court on June 6, 2001 noted in its order of dismissal:

This action is not [Petitioner's] first challenge to his 1991 Alameda County Superior Court conviction for first degree murder. His

1 opposition brief explains that this is his  
2 fourth habeas action concerning the same  
3 conviction. [Petitioner's] first habeas  
4 petition in this court, Green v. Pelican Bay  
5 State Prison, No. C-92-1977 TEH, was dismissed  
6 as frivolous. [Petitioner's] second habeas  
7 petition in this court, Green v. Marshall, No.  
8 C-94-1658 TEH, was dismissed for failure to  
9 prosecute. [Petitioner's] third habeas petition  
10 in this court, Green v. Henry, No. C-98-803 TEH,  
11 was dismissed as untimely filed and as a  
12 successive petition filed without appellate  
13 court permission. After that third dismissal,  
14 [Petitioner] made four applications to the  
15 United States Court of Appeals for the Ninth  
16 Circuit to try to obtain permission to file a  
17 second or successive petition. All four  
18 applications were denied. [Citation].

19 See Green v. Ortiz, No. C-00-4615 TEH (PR), Doc. #11. On December  
20 13, 2007 and again on June 12, 2009, this Court dismissed two more  
21 federal petitions challenging the same judgment because Petitioner  
22 failed to obtain appellate court permission to file a second or  
23 successive petition. See Green v. Walker, No. C-07-6097 TEH (PR),  
24 Doc. #3; Green v. Walker, No. C-09-2490 TEH (PR), Doc. #4.

25 A second or successive petition may not be filed in the  
26 district court unless the petitioner first obtains from the  
27 appropriate federal court of appeals an order authorizing the  
28 district court to consider the petition. 28 U.S.C. § 2244(b)(3)(A).  
29 Petitioner has not obtained an order from the Ninth Circuit  
30 authorizing this Court to consider the instant petition.  
31 Accordingly, the Petition is DISMISSED without prejudice to refiling  
32 if Petitioner obtains the necessary order.

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1           The Clerk shall terminate any pending motions as moot and  
2 close the file.

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4           IT IS SO ORDERED.

5  
6 DATED       1/7/2011



THELTON E. HENDERSON  
United States District Judge